

**REMARKS**

Applicants thank the Examiner for the consideration given this application. Reconsideration of this application is now requested in view of the amendments above and the following remarks.

With the above amendments, Claims 26-52 are pending in this application, wherein Claims 26, 34, and 42 are independent claims. Claims 1-25 have been cancelled without prejudice. No new matter has been added.

At page 2, the Office Action objects to Claim 19 as reciting identical subject matter to that claimed in Claim 14. Applicants respectfully submit that this objection is now moot in view of the cancellation of both claims.

At pages 2-18, the Office Action rejects Claims 1, 2, 4, 6, 10-12, 15, and 19-24 under 35 U.S.C. § 103(a) in view of Adachi (U.S. Patent No. 6,256,334), Hlasny (U.S. Patent No. 6,603,799), Giannakis et al. (U.S. Patent Application Publication No. 2005/0105594), and Tanabe et al. (U.S. Patent No. 5,754,947). At pages 18-21, the Office Action rejects Claim 25 under 35 U.S.C. § 103(a) in view of Adachi, Fleek et al. (U.S. Patent No. 5,533,025), and Tanabe et al. At pages 21-23, the Office Action rejects Claims 7-9 and 16-18 under 35 U.S.C. § 103(a) in view of Adachi, Hlasny, Giannakis et al., and Tanabe et al. (as applied to Claims 1 et al.), and further in view of Lyle et al. (U.S. Patent Application Publication No. 2005/0058181). At page 24, the Office Action rejects Claims 5 and 14 under 35 U.S.C. § 103(a) in view of Adachi, Hlasny, Giannakis et al., and Tanabe et al. (as applied to Claims 1 et al.), and further in view of Tran (U.S. Patent No. 5,453,987). It is respectfully submitted that these rejections are now moot in view of the cancellation of these claims.

With respect to Claims 26-52, Applicants respectfully submit that the cited references, either alone or in combination, fail to anticipate or render obvious these new claims. For example, Claim 26 recites a method that comprises “monitoring an energy level of a monitored frequency band of a

selected frequency hopping pattern; and transmitting data on a transmit frequency band of said selected frequency hopping pattern following a predetermined time delay if said energy level indicates a particular condition of said monitored frequency band.” None of the cited references discloses or suggests these elements.

Tanabe et al., for example, fails to discuss the monitoring of a frequency band in a system in which a frequency band to be used may change with time, such as in the claimed frequency-hopping system, or the determination of a condition of the monitored frequency band in such a system. It is respectfully submitted that merely applying attempting to merge such methods as are disclosed in Tanabe et al. with a frequency-hopping system does not result in the claimed method (and apparatus and device); the claimed method is more than just a mere conglomeration of disparate pieces of known systems and, on the contrary, required significant engineering to design, due to the use of frequency hopping patterns.

For at least these reasons, it is respectfully submitted that Claims 26-52 are allowable over the cited references, and an indication of allowability is respectfully requested.

Applicants may not have presented all possible arguments or have refuted the characterizations of either the claims or the prior art as found in the Office Action. However, the lack of such arguments or refutations is not intended to act as a waiver of such arguments or as concurrence with such characterizations.

***Conclusion***

Applicants believe that the above amendments and remarks address all of the grounds for objection and rejection and place the application in condition for allowance. Applicants, therefore, respectfully request prompt and favorable consideration of this Amendment and reconsideration of this application.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

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Respectfully submitted,

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